

REMARKS

This Amendment is submitted in response to a non-final Office Action mailed October 2, 2008. Claims 29-56 are pending in the application with claims 35-44 and 51-66 withdrawn from consideration. In the Office Action, claims 29-34 and 45-50 stand rejected under 35 U.S.C. § 102(e) as anticipated. In response, claims 29 and 45 has been amended and claims 30 and 46 have been cancelled. No new material has been added by way of these amendments. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing.

In the Office Action, claims 29-34 and 45-50 are rejected under §102(e) as anticipated by U.S. Patent No. 6,949,312 (hereinafter "*Kawakami*"). Both previous independent claims 29 and 45 required an anode material comprising an alloy material including an element M capable of being alloyed with lithium selected from metal elements and metalloids elements, and at least on kind of element R selected from elements with an atomic number of 20 or less except for hydrogen, lithium and noble gases. The Examiner asserts that *Kawakami* discloses a compound with the formula Sn.A.X, where A can be a transition metal and X can be O, F, N, Mg, Ba, Sr, Ca, La, Ce, Si, Ge, C, Pb, B, Bi, Sb, Al, In, and Zn. Note that the list of X is quite broad, and furthermore taht X is not necessary to the disclosure in *Kawakami*. See col. 8, ln 19-24. Previous dependent claims 30 and 46 required that the alloy material include a reactive phase with lithium and a half-width of a diffraction peak obtained by X-ray diffraction analysis of the reactive phase is about 0.5° or more. *Kawakami* discloses an amorphous Sn.A.X alloy with a half-width of preferably more than 0.2°, more preferably more that 0.5°, most preferably greater than 1.0°. Col. 10, lns. 6-11.

Applicants respectfully assert that the rejections are moot in view of the amendments to the claims. Claims 29 and 45 have been amended to incorporate the limitations in claims 30 and 46, and claims 30 and 46 have been cancelled. Furthermore the half-width of the diffraction peaks have been limited to about 5° or more. Instant independent claims 29 and 45 now include the limitation that "the alloy material include a reactive phase with lithium and t a half-width of a diffraction peak obtained by X-ray diffraction analysis of the reactive phase is about 5° or more." Support for the limitation can be found at least in paragraph [0028]. Furthermore, the Examiner is directed to the Examples, set forth in paragraphs [0044]-[0083], provide additional support for

the limitation that the X-ray diffraction analysis of the reactive phase give a peak with a half-width of 5° or more. With this amendment to the claims, Applicants' claims are not anticipated by the disclosure in *Kawakami*. The closest *Kawakami* comes to the instant claims is the disclosure of a peak with a half-width of 1.0°. As the Examiner should note in Table 5, a half-width peak of 1° provides only 85% retention, whereas the claimed limitation of a peak with a half-width of 5° or more provides 90% retention or more.

In view of the current amendment to the instance claims, Applicants assert that the rejection as anticipated by *Kawakami* is now moot. Applicants request that the anticipation rejections be withdrawn and further submit that the present application is in condition for allowance.

Respectfully submitted,

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